IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 4194 of 1995

Between:

1 K.Nageswara Rao, S/o. K.Lakshmayya,
R/o. Seethampeta Mandal, Srikakulam District.
2 AGADALA RAMA RAO, S/O ACHENNA,
R/o. Seethampeta Mandal, Srikakulam District.
3 Kandangi Narayana,
R/o. Seethampeta Mandal, Srikakulam District.
4 H.Ananda Rao, S/o. Silakanna.
R/o. Seethampeta Mandal, Srikakulam District.
5 NAidu Appalamma, D/o. Guresa.
R/o. Seethampeta Mandal, Srikakulam District.
6 Savara Suryanarayana, S/o. Bairagi.
R/o. Seethampeta Mandal, Srikakulam District.
7 Majji Kasinadh, S/o. Dimboro.
R/o. Seethampeta Mandal, Srikakulam District.
8 Peddinti Phalguna Rao, S/o. Kistanna.
R/o. Meliaputhi Mandal, Srikakulam District.
9 Kurmanadhapuram Bhaskara Rao, S/o. Sarayya.
R/o. Seethampeta Mandal, Srikakulam District.
10 Kurmanadhapuram Bhaskara Rao, S/o. Sarayya.
R/o. Seethampeta Mandal, Srikakulam District.

..... PETITIONERS

AND

1 The Project Officer, Integrated Tribal Development Agency,
Seethampeta, Srikakulam District.
2 The Commissioner of Tribal Welfare, Tribal Welfare Department.
Governmentt of A.P., Masab Tank,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order of Mandamus declaring more particularly in the nature of Writ of Mandamus declaring the action of the respondent No.1, in recovering the amounts paid on periodical increments by proceedings in Rc.No.1114/93-F dated 14/09/1994 in pursuance of the letter of the 2nd respondent in D.O.Rc.No.D3/10078/93 dated 25/02/1994 without notice is illegal, arbitrary and violative of article 14, 16 and 21 of the Constitution of India apart from violative of principles of natural justice and further declare that the petitioners are entitled to the increments that are already sanctioned and being enjoyed by the petitioners.

Counsel for the Petitioners: MR.M.VIJAYAKUMAR

Counsel for the Respondents : GP FOR SOCIAL WELFARE

The Court made the following :

THE HONOURABLE SRI JUSTICE GHULAM MOHAMMED

WRIT PETITION NO.4194 OF 1995

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the action of the respondent No.1 in recovering the amounts paid on periodical increments by proceedings dated 14.9.1994 in pursuance of the letter dated 25.2.1994 of the second respondent without issuing any notice as being illegal, arbitrary and violative

of Article 14,16 and 21 of the Constitution of India and consequently declare that the petitioners are entitled to the increments that are already sanctioned and being enjoyed by them.

By the impugned notice dated 14.9.1994, the first respondent sought to effect certain recoveries regarding excess payments made for the periodical increments sanctioned for the relevant period.

The learned counsel for the petitioner assailed the said notice mainly on two grounds, firstly that no notice was given to the petitioners before effecting such recoveries and secondly, the said notice is issued in clear violation of principles of natural justice.

Having heard the learned counsel for the petitioners and the learned Government Pleader for Social Welfare appearing for the respondent, inasmuch as admittedly no notice was given to the petitioners before effecting the recoveries of the amounts in question, the impugned order cannot be sustained in law on that ground alone and it is liable to be set aside.

In the result, the writ petition is allowed and the impugned order dated 14.9.1994 is hereby set aside. However, it is open for the respondent-authorities, if so advised, to issue notice and take steps in accordance with law. No costs.

18.11.2004.

mdaa/nrg.

That rule nisi has been made absolute as above.

Witness, the Honourable Sri Devinder Gupta, the Chief Justice on this the 18th day of November, 2004.

Copy to:

1 The Project Officer, Integrated Tribal Development Agency,
Seethampeta, Srikakulam District.
2 The Commissioner of Tribal Welfare, Tribal Welfare Department.
Governmentt of A.P., Masab Tank,
Hyderabad.

3. Two C.Cs to G.P., for Social Welfare, High Court of A.P., Hyderabad.

4. Two C.D.copies.